

Appl. No. 10/716,437  
Amdt. Dated February 25, 2005  
Reply to Office Action of November 30, 2004

### **REMARKS**

In an Office Action dated November 30, 2004, claims 1-4, 6, 7, 10, 11, 13 and 14 were rejected, and claims 5, 8, 9, 12, 15 and 16 were objected to. Applicants sincerely appreciate the indicated allowability of claims 5, 8, 9, 12, 15 and 16. In view of the above amendments and following remarks, Applicants respectfully request reconsideration of this application, and allowance of all of the pending claims, as amended.

Claims 1-16 remain in this application. Claim 1 has been amended, incorporating the feature disclosed on page 2, para. 0015 of the specification. The amendment does not add to or depart from the original disclosure, or constitute prohibited new matter.

An Information Disclosure Statement and PTO/SB/08 accompanies this response.

### **Rejections Under 35 U.S.C. § 102**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Hood et al. (U.S. Patent No. 5,318,570) ("Hood"). Insofar as this rejection could apply to claim 1, as amended, it is respectfully traversed.

It is stated in the Office Action that Hood discloses an ultrasonic tool that provides a surgical treatment on bone tissue using a tip set in vibration at a frequency in the ultrasound range.

Claim 1, as amended, now recites that "the vibration of the tip is modulated with low frequency pulses." As described in para. 51 of the specification, this feature causes the tip to have a hammering effect, which, when combined with the ultrasonic vibration, "produces a clean, precise cut in mineralized tissue." Applicants submit that this feature or this hammering effect is nowhere disclosed or suggested by Hood, the other prior art of record, or the prior art cited in the accompanying IDS. It is noted that this feature was incorporated into the claims of the U.S. parent application number 9/740,937, and issued as U.S. Patent No. 6,695,847 on February 24, 2004. Accordingly, Applicants submit that claim 1, as amended, is not anticipated by Hood or the other prior art of record, and request that the rejection be withdrawn.

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Claims 2-4 and 6 are also apparently were rejected under 35 U.S.C. § 102(b) as anticipated by Hood. These claims are all ultimately dependent on claim 1 and incorporate all of its limitations. As Applicants believe that claim 1 is now in a condition for allowance, Applicants submit that claims 2-4 and 6 are also allowable and therefore request that their rejections be withdrawn.

### **Rejections Under 35 U.S.C. § 103**

Claims 7, 10, 11, 13 and 14 stand rejected under 35 U.S.C. § 103(a) as obvious over Hood in combination with either Idemoto et al. (U.S. Patent No. 4,832,6830) ("Idemoto") or Hugo (U.S. Patent No. 6,267,594). These claims are all ultimately dependent on claim 1 and incorporate all of its limitations. Idemoto and Hugo do not supply the above-noted deficiencies of Hood, as to amended claim 1 or claims dependent thereon. As Applicants believe that claim 1 is in a condition for allowance, Applicants submit that claims 7, 10, 11, 13 and 14 are also allowable and therefore request that their rejections be withdrawn.

### **Allowable Subject Matter**


Claims 5, 8, 9, 12, 15 and 16 were objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants appreciate the indication of allowable subject matter in these claims.

These claims are all ultimately dependent on claim 1 and incorporate all of its limitations. As Applicants believe that claim 1 is now in a condition for allowance, Applicants submit that claims 5, 8, 9, 12, 15 and 16 are also allowable and therefore request that the objections be withdrawn.

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Applicants submit that the present application is now in condition for allowance.  
Reconsideration and favorable action are earnestly requested.

Respectfully submitted,

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